

Application No. 09/265,070
Amendment dated April 28, 2005
Reply to Final Office Action of February 10, 2005

Docket No. 1:32-4519

REMARKS

Applicants respectfully request reconsideration of this application in view of the foregoing amendments and following remarks.

Information Disclosure Statement

Applicants note that one of the references (i.e., "Patent Abstracts of Japan No. 09322010") in the Form PTO-1449 filed on October 3, 2003 along with an IDS was not initialed while other references in the same Form PTO-1449 were initialed. Applicants contacted the Supervisor of the case on October 28, 2004 and requested to return the same Form PTO-1449 with the missing reference initialed.

Accordingly, Applicants respectfully request that the Examiner initials the missing reference and returns the Form PTO-1449 in due course.

Status of the Claims

Claims 1-21, 26, 31-35, 40, 45-49, 54 and 59-71 are currently pending. Claims 17, 31 and 45 are independent. By this Amendment, independent claims 17, 31 and 45 are amended. No new matter has been added by this Amendment.

Rejection under 35 U.S.C. §103

Claims 17-21, 26, 31-35, 40, 45-49 and 54 have been repeatedly rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,389,179 to Katayama et al. ("Katayama") in view of U.S. Patent No. 5,864,360 to Okauchi et al. ("Okauchi").

Applicants note that the following assertions, among other assertions, are made by the Examiner:

(1) In the *Examiner's response* section, the Examiner asserts that Okauchi "inherently"

Application No. 09/265,070
Amendment dated April 28, 2005
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Docket No. 1:32-4519

teaches the "selecting means" as claimed because the user will have the option of performing refocusing after the object or camera moves. (page 2 of the Final Office action)

(2) The Examiner further asserts that, in view of Katayama along with an Official Notice, "it would have been obvious to one skilled in the art to have locked in the focal length when capturing images for a panoramic image in order to obtain images that can be synthesized by mere translation." (page 4 of the Final Office action)

(3) The Examiner then asserts that it would have been obvious "to combine the method of setting an in-focus position for panoramic image capture prior to image sensing taught by Katayama et al with the practice of restarting the focusing and Office Notice to lock in the focal length when capturing images for a panoramic image when the object has moved taught by Okuchi et al to make an apparatus that finishes associating captured images with one another when the image sensing apparatus detects an out-of-focus state and sends a command to change the optical system condition by refocusing." (page 5 of the Final Office action)

Applicants respectfully disagree with and traverse the obviousness rejections set forth in the Final Office Action. To establish a prima facie case of obviousness, there must be (1) showing that all claim elements are present in the cited references, MPEP § 2143.03, and (2) some suggestion or motivation, either in the references themselves or in the general knowledge available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. MPEP § 2143.01. Because both of these requirements have not been met, a proper prima facie case of obviousness has not been set forth in the Office Action and the rejection should be withdrawn.

First of all, the "selecting means" in claim 17, for example, is specifically configured to

Application No. 09/265,070
Amendment dated April 28, 2005
Reply to Final Office Action of February 10, 2005

Docket No. 132-4519

make the user to select whether or not to continue an image sensing operation when said optical system condition change instruction means outputs the signal to change the optical system condition.

Applicants believe that by merely having an option to repeat a focusing operation as in Okauch does not “inherently” teach the “selecting means” of the present invention that specifically makes a user to select as discussed above.

Secondly, the “control means” in claim 17 is specifically configured to be operated depending on the user’s interaction. The relevant portion of claim 17 recites “control means for completing associating operation ... in a case that the user selects to finish the image sensing operation, and for finishing associating operation of images sensed after a first one of the plurality of images to be stored in said storage means in association with each other is sensed and stored, and for controlling to stop changing of the optical system condition when the user selects to continue the image sensing operation.”

Applicants believe that by merely having a focus lock-in feature in a panoramic image taking system does not necessarily teach the “control means” of the present invention that controls the image processing apparatus in a specific way as discussed above.

Additionally, Applicants note that none of the cited references (i.e., Katayama and Okauchi) including the cited portions by the Examiner shows or suggests at least the “selecting means” and the “control means” of claim 17 as discussed above.

Claims 31 is a method claim that reflects the image processing apparatus of claim 17, and claim 45 is a computer readable medium claim that reflect the method of claim 31.

Accordingly, each of independent claims 17, 31 and 45 is believed neither anticipated by

Application No. 09/265,070
Amendment dated April 28, 2005
Reply to Final Office Action of February 10, 2005

Docket No. 132-4519

nor rendered obvious in view of the cited references (i.e., Katayama and Okauchi), either taken alone or in combination, for at least the reasons discussed above.

Nonetheless, independent claims 17, 31 and 45 are amended as shown above for further clarification. In particular, amended claim 17 recites "image sensing means having an image sensing lens which can change an optical system condition while a user takes a plurality of images using said image sensing means." Each of claims 31 and 45 is amended in a similar manner.

Applicants believe that amended claims 17, 31 and 45 are further distinguishable over the cited references (i.e., Katayama and Okauchi).

Reconsideration and withdrawal of the rejections of claims 17, 31 and 45 under 35 U.S.C. §103(a) is respectfully requested.

Applicants have not individually addressed the rejections of the dependent claims because Applicants submit that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicants however reserve the right to address such rejections of the dependent claims should such be necessary.

Applicants believe that this application as amended is in condition for allowance and such action is respectfully requested.

Application No. 09/265,070
Amendment dated April 28, 2005
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Docket No. 1232-4519

AUTHORIZATION

No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-4519). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,
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Dated: April 28, 2005

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Application No. 09/265,070
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Docket No. 132-4519

AUTHORIZATION

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